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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1014**

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### **Introduced by Assembly Members Skinner and Williams**

(Principal coauthor: Senator Jackson)

**(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta, Buchanan, Dickinson, Levine, Lowenthal, Rendon, Stone, Ting, and Wieckowski)**

February 22, 2013

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An act to amend Sections 1524 and 18250 of, to add Section 1542.5 to, and to add Division 3.2 (commencing with Section 18100) to Title 2 of Part 6 of, the Penal Code, and to amend Section 8105 of the Welfare and Institutions Code, relating to firearms.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1014, as amended, Skinner. Gun violence restraining orders.

(1) Existing law regulates the sale, transfer, possession, and ownership of firearms, including prohibiting specified persons from owning or possessing firearms. Existing law, among other things, prohibits a person

subject to a domestic violence protective order from owning or possessing a firearm while that order is in effect and if prohibited by that order.

*This bill would authorize a court to issue an emergency gun violence restraining order if a law enforcement officer asserts and a judicial officer finds that there are reasonable grounds to believe that the subject of the petition poses an immediate and present danger of causing personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another person, as specified. The bill would require a law enforcement officer to serve the order on the restrained person, if the restrained person can reasonably be located, file a copy of the order with the court, and have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The bill would require the presiding judge of the superior court in each county to designate at least one judge, commissioner, or referee to be reasonably available to issue orally, by telephone or otherwise, emergency gun violence restraining orders at all times whether or not the court is in session.*

This bill would *additionally* authorize a court to issue an ex parte gun violence restraining order, upon a showing of good cause, prohibiting the subject of the petition from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive a firearm or ammunition, as specified. The bill would require the ex parte order to expire no later than 14 days after the date on the order and would require *the court to hold a hearing within 21 days of issuing the ex parte gun violence restraining order to determine if a gun violence restraining order that is in effect for one year should be issued. The bill would require* a law enforcement officer to serve the restrained person the ex parte order, if the restrained person can reasonably be located. ~~The bill would permit the restrained person to request a hearing on the order, and, if it is found at the hearing that the order is not supported by good cause, would require the court to dissolve the order.~~

The bill would ~~also~~ authorize a court to issue a gun violence restraining order prohibiting the subject of the petition from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive a firearm or ammunition for a period of one year when there is clear and convincing

evidence to believe that ~~the subject of the petition poses a significant risk of personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm.~~ *there is a substantial likelihood that the subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, will cause personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another person, as specified.* The bill would authorized the renewal of the order for additional one-year periods and would permit the restrained person to request one hearing to terminate the order during the effective period of the initial order or each renewal period.

The bill would ~~require, upon service of the ex parte gun violence restraining order or upon the issuance of a gun violence restraining order issued after notice and a hearing,~~ *require a court, upon issuance of a gun violence restraining order, to order the restrained person to surrender to the local law enforcement agency any firearm or ammunition in his or her custody and control, or which he or she possesses or owns. The bill would require the local law enforcement agency to retain custody of the firearm and ammunition for the duration of a gun violence restraining order.*

The bill would require the court to notify the Department of Justice and the district attorney in the jurisdiction in which a gun violence restraining order was issued when ~~an ex parte any gun violence restraining order has been issued or dissolved and when a gun violence restraining order issued after notice and a hearing has been issued, renewed, or terminated.~~ *issued, renewed, dissolved, or terminated.*

The bill would make it a misdemeanor to file a petition for a gun violence restraining order, knowing the information in the petition to be false or with the intent to harass. The bill would also provide that a person who violates a gun violence restraining order is guilty of a misdemeanor and shall be prohibited from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a 5-year period, commencing upon the expiration of the existing gun violence restraining order.

By creating new crimes and by requiring new duties of local law enforcement, this bill would impose a state-mandated local program.

(2) Existing law states the grounds upon which a search warrant may be issued, including when the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, specified persons.

This bill would allow a search warrant to be issued when the property or things to be seized are a firearm or firearms or ammunition that is in the custody ~~or~~ and control of, or is owned or possessed by, a person who is the subject of a gun violence restraining order ~~and who is presently known to have in his or her custody and control or possession, or to own a firearm or firearms or ammunition.~~ order. The bill would also require the law enforcement officer executing a search warrant issued upon that ground to take custody of any firearm or ammunition ~~in plain sight that is in the restrained person's custody and control or possession, that is owned by the restrained person, or that is discovered pursuant to a consensual or other lawful search and would provide rules for executing the search warrant when the location to be searched is jointly occupied by multiple parties: the restrained person and one or more other persons.~~

(3) Existing law requires specified law enforcement officers to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a lawful search when present at the scene of a domestic violence incident involving a threat to human life or physical assault.

This bill would apply the requirements described above to law enforcement officers serving a gun violence restraining order. The bill would also apply those requirements when the law enforcement officer is a sworn member of the Department of Justice who is a peace officer.

(4) Existing law requires the Department of Justice to request public and private mental hospitals, sanitariums, and institutions to submit to the department information necessary to identify persons who are admitted to a specified facility because the person is a danger to himself, herself, or others, to own, possess, control, receive, or purchase any firearm. Existing law requires the department to only use the information for certain specified purposes.

This bill would require the department ~~to~~ make use of the above-described information only to determine the eligibility of a person who is the subject to either a gun violence restraining order or a firearm seizure warrant to acquire, carry, or possess firearms, destructive devices, or explosives.

(5) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

*This bill would make legislative findings to that effect.*

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1524 of the Penal Code is amended to  
2 read:

3 1524. (a) A search warrant may be issued upon any of the  
4 following grounds:

5 (1) When the property was stolen or embezzled.

6 (2) When the property or things were used as the means of  
7 committing a felony.

8 (3) When the property or things are in the possession of any  
9 person with the intent to use them as a means of committing a  
10 public offense, or in the possession of another to whom he or she  
11 may have delivered them for the purpose of concealing them or  
12 preventing them from being discovered.

13 (4) When the property or things to be seized consist of any item  
14 or constitute any evidence that tends to show a felony has been  
15 committed, or tends to show that a particular person has committed  
16 a felony.

17 (5) When the property or things to be seized consist of evidence  
18 that tends to show that sexual exploitation of a child, in violation  
19 of Section 311.3, or possession of matter depicting sexual conduct

1 of a person under 18 years of age, in violation of Section 311.11,  
2 has occurred or is occurring.

3 (6) When there is a warrant to arrest a person.

4 (7) When a provider of electronic communication service or  
5 remote computing service has records or evidence, as specified in  
6 Section 1524.3, showing that property was stolen or embezzled  
7 constituting a misdemeanor, or that property or things are in the  
8 possession of any person with the intent to use them as a means  
9 of committing a misdemeanor public offense, or in the possession  
10 of another to whom he or she may have delivered them for the  
11 purpose of concealing them or preventing their discovery.

12 (8) When the property or things to be seized include an item or  
13 any evidence that tends to show a violation of Section 3700.5 of  
14 the Labor Code, or tends to show that a particular person has  
15 violated Section 3700.5 of the Labor Code.

16 (9) When the property or things to be seized include a firearm  
17 or any other deadly weapon at the scene of, or at the premises  
18 occupied or under the control of the person arrested in connection  
19 with, a domestic violence incident involving a threat to human life  
20 or a physical assault as provided in Section 18250. This section  
21 does not affect warrantless seizures otherwise authorized by Section  
22 18250.

23 (10) When the property or things to be seized include a firearm  
24 or any other deadly weapon that is owned by, or in the possession  
25 of, or in the custody or control of, a person described in subdivision  
26 (a) of Section 8102 of the Welfare and Institutions Code.

27 (11) When the property or things to be seized include a firearm  
28 that is owned by, or in the possession of, or in the custody or  
29 control of, a person who is subject to the prohibitions regarding  
30 firearms pursuant to Section 6389 of the Family Code, if a  
31 prohibited firearm is possessed, owned, in the custody of, or  
32 controlled by a person against whom a protective order has been  
33 issued pursuant to Section 6218 of the Family Code, the person  
34 has been lawfully served with that order, and the person has failed  
35 to relinquish the firearm as required by law.

36 (12) When the information to be received from the use of a  
37 tracking device constitutes evidence that tends to show that either  
38 a felony, a misdemeanor violation of the Fish and Game Code, or  
39 a misdemeanor violation of the Public Resources Code has been  
40 committed or is being committed, tends to show that a particular

1 person has committed a felony, a misdemeanor violation of the  
2 Fish and Game Code, or a misdemeanor violation of the Public  
3 Resources Code, or is committing a felony, a misdemeanor  
4 violation of the Fish and Game Code, or a misdemeanor violation  
5 of the Public Resources Code, or will assist in locating an  
6 individual who has committed or is committing a felony, a  
7 misdemeanor violation of the Fish and Game Code, or a  
8 misdemeanor violation of the Public Resources Code. A tracking  
9 device search warrant issued pursuant to this paragraph shall be  
10 executed in a manner meeting the requirements specified in  
11 subdivision (b) of Section 1534.

12 (13) When a sample of the blood of a person constitutes  
13 evidence that tends to show a violation of Section 23140, 23152,  
14 or 23153 of the Vehicle Code and the person from whom the  
15 sample is being sought has refused an officer's request to submit  
16 to, or has failed to complete, a blood test as required by Section  
17 23612 of the Vehicle Code, and the sample will be drawn from  
18 the person in a reasonable, medically approved manner. This  
19 paragraph is not intended to abrogate a court's mandate to  
20 determine the propriety of the issuance of a search warrant on a  
21 case-by-case basis.

22 (14) When the property or things to be seized are a firearm or  
23 firearms or ammunition that is in the custody ~~or~~ and control of, or  
24 is owned or possessed by, a person who is the subject of a gun  
25 violence restraining order that has been issued pursuant to Division  
26 3.2 (commencing with Section 18100) of Title 2 of Part 6 and who  
27 ~~is presently known to have in his or her custody and control or~~  
28 ~~possession, or to own a firearm or firearms or ammunition.~~ 6.

29 (b) The property, things, person, or persons described in  
30 subdivision (a) may be taken on the warrant from any place, or  
31 from any person in whose possession the property or things may  
32 be.

33 (c) Notwithstanding subdivision (a) or (b), no search warrant  
34 shall issue for any documentary evidence in the possession or  
35 under the control of any person who is a lawyer as defined in  
36 Section 950 of the Evidence Code, a physician as defined in Section  
37 990 of the Evidence Code, a psychotherapist as defined in Section  
38 1010 of the Evidence Code, or a member of the clergy as defined  
39 in Section 1030 of the Evidence Code, and who is not reasonably  
40 suspected of engaging or having engaged in criminal activity

1 related to the documentary evidence for which a warrant is  
2 requested unless the following procedure has been complied with:

3 (1) At the time of the issuance of the warrant, the court shall  
4 appoint a special master in accordance with subdivision (d) to  
5 accompany the person who will serve the warrant. Upon service  
6 of the warrant, the special master shall inform the party served of  
7 the specific items being sought and that the party shall have the  
8 opportunity to provide the items requested. If the party, in the  
9 judgment of the special master, fails to provide the items requested,  
10 the special master shall conduct a search for the items in the areas  
11 indicated in the search warrant.

12 (2) (A) If the party who has been served states that an item or  
13 items should not be disclosed, they shall be sealed by the special  
14 master and taken to court for a hearing.

15 (B) At the hearing, the party searched shall be entitled to raise  
16 any issues that may be raised pursuant to Section 1538.5 as well  
17 as a claim that the item or items are privileged, as provided by  
18 law. The hearing shall be held in the superior court. The court shall  
19 provide sufficient time for the parties to obtain counsel and make  
20 any motions or present any evidence. The hearing shall be held  
21 within three days of the service of the warrant unless the court  
22 makes a finding that the expedited hearing is impracticable. In that  
23 case the matter shall be heard at the earliest possible time.

24 (C) If an item or items are taken to court for a hearing, any  
25 limitations of time prescribed in Chapter 2 (commencing with  
26 Section 799) of Title 3 of Part 2 shall be tolled from the time of  
27 the seizure until the final conclusion of the hearing, including any  
28 associated writ or appellate proceedings.

29 (3) The warrant shall, whenever practicable, be served during  
30 normal business hours. In addition, the warrant shall be served  
31 upon a party who appears to have possession or control of the  
32 items sought. If, after reasonable efforts, the party serving the  
33 warrant is unable to locate the person, the special master shall seal  
34 and return to the court, for determination by the court, any item  
35 that appears to be privileged as provided by law.

36 (d) (1) As used in this section, a “special master” is an attorney  
37 who is a member in good standing of the California State Bar and  
38 who has been selected from a list of qualified attorneys that is  
39 maintained by the State Bar particularly for the purposes of  
40 conducting the searches described in this section. These attorneys



1 shall serve without compensation. A special master shall be  
2 considered a public employee, and the governmental entity that  
3 caused the search warrant to be issued shall be considered the  
4 employer of the special master and the applicable public entity,  
5 for purposes of Division 3.6 (commencing with Section 810) of  
6 Title 1 of the Government Code, relating to claims and actions  
7 against public entities and public employees. In selecting the  
8 special master, the court shall make every reasonable effort to  
9 ensure that the person selected has no relationship with any of the  
10 parties involved in the pending matter. Any information obtained  
11 by the special master shall be confidential and may not be divulged  
12 except in direct response to inquiry by the court.

13 (2) In any case in which the magistrate determines that, after  
14 reasonable efforts have been made to obtain a special master, a  
15 special master is not available and would not be available within  
16 a reasonable period of time, the magistrate may direct the party  
17 seeking the order to conduct the search in the manner described  
18 in this section in lieu of the special master.

19 (e) Any search conducted pursuant to this section by a special  
20 master may be conducted in a manner that permits the party serving  
21 the warrant or his or her designee to accompany the special master  
22 as he or she conducts his or her search. However, that party or his  
23 or her designee may not participate in the search nor shall he or  
24 she examine any of the items being searched by the special master  
25 except upon agreement of the party upon whom the warrant has  
26 been served.

27 (f) As used in this section, “documentary evidence” includes,  
28 but is not limited to, writings, documents, blueprints, drawings,  
29 photographs, computer printouts, microfilms, X-rays, files,  
30 diagrams, ledgers, books, tapes, audio and video recordings, films,  
31 and papers of any type or description.

32 (g) No warrant shall issue for any item or items described in  
33 Section 1070 of the Evidence Code.

34 (h) Notwithstanding any other law, no claim of attorney work  
35 product as described in Chapter 4 (commencing with Section  
36 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall  
37 be sustained where there is probable cause to believe that the  
38 lawyer is engaging or has engaged in criminal activity related to  
39 the documentary evidence for which a warrant is requested unless  
40 it is established at the hearing with respect to the documentary

1 evidence seized under the warrant that the services of the lawyer  
2 were not sought or obtained to enable or aid anyone to commit or  
3 plan to commit a crime or a fraud.

4 (i) Nothing in this section is intended to limit an attorney's  
5 ability to request an in camera hearing pursuant to the holding of  
6 the Supreme Court of California in *People v. Superior Court (Laff)*  
7 (2001) 25 Cal.4th 703.

8 (j) In addition to any other circumstance permitting a magistrate  
9 to issue a warrant for a person or property in another county, when  
10 the property or things to be seized consist of any item or constitute  
11 any evidence that tends to show a violation of Section 530.5, the  
12 magistrate may issue a warrant to search a person or property  
13 located in another county if the person whose identifying  
14 information was taken or used resides in the same county as the  
15 issuing court.

16 (k) This section shall not be construed to create a cause of action  
17 against any foreign or California corporation, its officers,  
18 employees, agents, or other specified persons for providing location  
19 information.

20 SEC. 2. Section 1542.5 is added to the Penal Code, immediately  
21 following Section 1542, to read:

22 1542.5. Notwithstanding any other law, with regards to a search  
23 warrant issued upon the grounds specified in paragraph (14) of  
24 subdivision (a) of Section 1524, the following shall apply:

25 (a) The law enforcement officer executing the warrant shall take  
26 custody of any firearm or ammunition ~~in plain sight that is in the~~  
27 *restrained person's custody and control or possession, that is*  
28 *owned by the restrained person, or that is* discovered pursuant to  
29 a consensual or other lawful search.

30 (b) (1) If the location to be searched during the execution of  
31 the warrant is jointly occupied by ~~multiple parties~~ *the restrained*  
32 *person and one or more other persons* and ~~a firearm, which is~~  
33 ~~determined to be a law enforcement officer executing the warrant~~  
34 *finds a firearm that is* owned by a person other than the ~~person~~  
35 ~~who is the subject of a gun violence restraining order, is found,~~  
36 *restrained person*, the firearm shall not be seized if both of the  
37 following conditions are satisfied:

38 (A) The firearm is stored in a manner that the ~~person subject to~~  
39 ~~a gun violence restraining order~~ *restrained person* does not have  
40 access to or control of the firearm.

1 (B) There is no evidence of unlawful possession of the firearm  
2 by the owner of the firearm.

3 (2) If the location to be searched during the execution of the  
4 warrant is jointly occupied by ~~multiple parties~~ *the restrained person*  
5 *and one or more other persons* and a gun safe is located that is  
6 ~~located, which is determined to be~~ owned by a person other than  
7 ~~the person subject to a gun violence restraining order,~~ *restrained*  
8 *person*, the contents of the gun safe shall not be searched except  
9 in the owner's presence, and with his or her consent or with a valid  
10 search warrant for the gun safe.

11 SEC. 3. Division 3.2 (commencing with Section 18100) is  
12 added to Title 2 of Part 6 of the Penal Code, to read:

13  
14 DIVISION 3.2. GUN VIOLENCE RESTRAINING ORDERS

15  
16 CHAPTER 1. GENERAL

17  
18 18100. A gun violence restraining order is an order, in writing,  
19 signed by ~~a magistrate,~~ *the court*, prohibiting a named person from  
20 having under his or her custody and control, owning, purchasing,  
21 possessing, or receiving any firearms or ammunition.

22 ~~18101.~~

23 18105. (a) The Judicial Council shall prescribe the form of  
24 the orders and any other documents required by this division and  
25 shall promulgate forms and instructions for applying for orders  
26 described in this division.

27 (b) *Any form to petition for a gun violence restraining order*  
28 *adopted pursuant to this section shall require the petitioner to*  
29 *describe the number, types, and locations of any firearms and*  
30 *ammunition presently known by the petitioner to be possessed or*  
31 *controlled by the subject of the petition.*

32 18110. *Prior to a hearing on the issuance, renewal, or*  
33 *termination of an order under Chapter 3 (commencing with Section*  
34 *18150) or Chapter 4 (commencing with Section 18170), the court*  
35 *shall ensure that a search as described in subdivision (a) of Section*  
36 *6306 of the Family Code is conducted. After issuing its ruling, the*  
37 *court shall provide the advisement described in subdivision (c) of*  
38 *Section 6306 of the Family Code and shall keep information*  
39 *obtained from a search conducted pursuant to this section*

1 *confidential in accordance with subdivision (d) of Section 6306*  
2 *of the Family Code.*

3 *18115. (a) (1) (A) The court shall notify the Department of*  
4 *Justice when a gun violence restraining order has been issued or*  
5 *renewed under this division no later than one court day after*  
6 *issuing or renewing the order.*

7 *(B) The court shall notify the Department of Justice when a gun*  
8 *violence restraining order has been dissolved or terminated under*  
9 *this division no later than five court days after dissolving or*  
10 *terminating the order. Upon receipt of either of these notices, the*  
11 *Department of Justice shall, within 15 days, delete any reference*  
12 *to the gun violence restraining order from its records.*

13 *(2) The notices required to be submitted to the Department of*  
14 *Justice pursuant to paragraph (1) shall be submitted in an*  
15 *electronic format, in a manner prescribed by the department.*

16 *(b) (1) The court shall notify the district attorney in the*  
17 *jurisdiction in which a gun violence restraining order was issued*  
18 *when a gun violence order has been issued or renewed under this*  
19 *division no later than one court day after issuing or renewing the*  
20 *order.*

21 *(2) The court shall notify the district attorney in the jurisdiction*  
22 *in which a gun violence restraining order was dissolved or*  
23 *terminated when a gun violence restraining order has been*  
24 *dissolved or terminated under this division, no later than five court*  
25 *days after dissolving or terminating the order.*

26 *18120. (a) A person subject to a gun violence restraining order*  
27 *issued pursuant to this division shall not have under his or her*  
28 *custody and control, own, purchase, possess, or receive a firearm*  
29 *or ammunition while that order is in effect.*

30 *(b) (1) Upon issuance of a gun violence restraining order issued*  
31 *pursuant to this division, the court shall order the restrained person*  
32 *to surrender to the local law enforcement agency any firearm or*  
33 *ammunition in the restrained person's custody and control, or*  
34 *which the restrained person possesses or owns.*

35 *(2) The surrender ordered pursuant to paragraph (1) shall occur*  
36 *by immediately surrendering the firearm or ammunition in a safe*  
37 *manner, upon request of any law enforcement officer, to the control*  
38 *of the officer, after being served with the protective order. A law*  
39 *enforcement officer serving a gun violence restraining order that*  
40 *indicates that the restrained person possesses a firearm or*

1 *ammunition shall request that the firearm or ammunition be*  
2 *immediately surrendered. Alternatively, if no request is made by*  
3 *a law enforcement officer, the surrender shall occur within 24*  
4 *hours of being served with the order, by either surrendering the*  
5 *firearm or ammunition in a safe manner to the control of the local*  
6 *law enforcement agency, or by selling the firearm or ammunition*  
7 *to a licensed gun dealer, as specified in Article 1 (commencing*  
8 *with Section 26700) and Article 2 (commencing with Section*  
9 *26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal*  
10 *Code. The law enforcement officer or licensed gun dealer taking*  
11 *possession of the firearm or ammunition pursuant to this*  
12 *subdivision shall issue a receipt to the person surrendering the*  
13 *firearm or ammunition at the time of surrender. A person ordered*  
14 *to surrender a firearm or ammunition pursuant to this subdivision*  
15 *shall, within 48 hours after being served with the order, do both*  
16 *of the following:*

17 *(A) File, with the court that issued the gun violence restraining*  
18 *order, the receipt showing the firearm or ammunition was*  
19 *surrendered to a local law enforcement agency or sold to a licensed*  
20 *gun dealer. Failure to timely file a receipt shall constitute a*  
21 *violation of the protective order.*

22 *(B) File a copy of the receipt described in subparagraph (A)*  
23 *with the law enforcement agency that served the gun violence*  
24 *restraining order. Failure to timely file a copy of the receipt shall*  
25 *constitute a violation of the protective order.*

26 *(c) (1) The firearm or firearms or ammunition surrendered to*  
27 *a law enforcement officer or law enforcement agency pursuant to*  
28 *this section shall be retained by the law enforcement agency until*  
29 *the expiration of any gun violence restraining order that has been*  
30 *issued against the restrained person. Upon expiration of any order,*  
31 *the firearm or firearms or ammunition shall be returned to the*  
32 *restrained person in accordance with the provisions of Chapter 2*  
33 *(commencing with Section 33850) of Division 11 of Title 4. A*  
34 *firearm or ammunition that is not claimed is subject to the*  
35 *requirements of Section 34000.*

36 *(2) A restrained person who owns a firearm or ammunition that*  
37 *is in the custody of a law enforcement agency pursuant to this*  
38 *section and who does not wish to have the firearm returned shall*  
39 *be entitled to sell or transfer title of the firearm to a licensed dealer*

1 *provided that the firearm is an otherwise legal firearm and the*  
2 *restrained person otherwise has right to title of the firearm.*

3 *(d) If the restrained person declines to relinquish possession of*  
4 *any firearm based on the assertion of the right against*  
5 *self-incrimination, as provided by the Fifth Amendment to the*  
6 *United States Constitution and Section 15 of Article I of the*  
7 *California Constitution, the court may grant use immunity for the*  
8 *act of relinquishing the firearm required under this section.*

9 *(e) If a person other than the restrained person claims title to*  
10 *any firearm or ammunition surrendered pursuant to this section,*  
11 *and he or she is determined by the law enforcement agency to be*  
12 *the lawful owner of the firearm or ammunition, the firearm or*  
13 *ammunition shall be returned to the him or her pursuant to Chapter*  
14 *2 (commencing with Section 33850) of Division 11 of Title 4.*

15  
16 *CHAPTER 2. EMERGENCY GUN VIOLENCE RESTRAINING ORDER*  
17

18 *18125. (a) An emergency gun violence restraining order may*  
19 *be issued only if a law enforcement officer asserts, and a judicial*  
20 *officer finds, both of the following:*

21 *(1) That reasonable grounds have been asserted to believe that*  
22 *the subject of the petition poses an immediate and present danger*  
23 *of causing personal injury to himself, herself, or another by having*  
24 *under his or her custody and control, owning, purchasing,*  
25 *possessing, or receiving a firearm.*

26 *(2) That an emergency gun violence restraining order is*  
27 *necessary to prevent personal injury to himself, herself, or another*  
28 *person because less restrictive alternatives either have been tried*  
29 *and found to be ineffective, or have been determined to be*  
30 *inadequate or inappropriate for the circumstances of the subject*  
31 *of the petition.*

32 *(b) An emergency gun violence restraining order issued pursuant*  
33 *to this chapter shall prohibit the subject of the petition from having*  
34 *under his or her custody and control, owning, purchasing,*  
35 *possessing, or receiving, or attempting to purchase or receive, a*  
36 *firearm or ammunition, and shall expire 14 days from the date of*  
37 *the order.*

38 *18130. An emergency gun violence restraining order is valid*  
39 *only if it is issued by a judicial officer after making the findings*

1 *required by Section 18125 and pursuant to a specific request by*  
2 *a law enforcement officer.*

3 *18135. An emergency gun violence restraining order issued*  
4 *under this chapter shall include all of the following:*

5 *(a) A statement of the grounds supporting the issuance of the*  
6 *order.*

7 *(b) The date and time the order expires.*

8 *(c) The address of the superior court for the district or county*  
9 *in which the restrained party resides.*

10 *(d) The following statement:*

11  
12 *“To the restrained person: This order will last until the date*  
13 *and time noted above. You are required to surrender all firearms*  
14 *and ammunition that you own to a local law enforcement agency*  
15 *in accordance with Section 18120 of the Penal Code and you may*  
16 *not have under your custody and control, own, purchase, possess,*  
17 *or receive, or attempt to purchase or receive a firearm or*  
18 *ammunition, while this order is in effect. However, a permanent*  
19 *gun violence restraining order may be obtained from the court.*  
20 *You may seek the advice of an attorney as to any matter connected*  
21 *with the order. The attorney should be consulted promptly so that*  
22 *the attorney may assist you in any matter connected with the*  
23 *order.”*

24  
25 *18140. A law enforcement officer who requests an emergency*  
26 *gun violence restraining order shall do all of the following:*

27 *(a) If the order is obtained orally, memorialize the order in*  
28 *writing and sign it.*

29 *(b) Serve the order on the restrained person, if the restrained*  
30 *person can reasonably be located.*

31 *(c) File a copy of the order with the court as soon as practicable*  
32 *after issuance.*

33 *(d) Have the order entered into the computer database system*  
34 *for protective and restraining orders maintained by the Department*  
35 *of Justice.*

36 *18145. The presiding judge of the superior court in each county*  
37 *shall designate at least one judge, commissioner, or referee to be*  
38 *reasonably available to issue orally, by telephone or otherwise,*  
39 *emergency gun violence restraining orders at all times whether*  
40 *or not the court is in session.*

## CHAPTER 2.3. EX PARTE GUN VIOLENCE RESTRAINING ORDER

~~18102. (a) A~~

18150. (a) (1) *An immediate family member, licenced therapist, or licensed health care provider of a person may file a petition requesting that the court issue an ex parte gun violence restraining order enjoining the subject of the petition from having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm or ammunition.*

(2) *For purposes of this subdivision, “immediate family member” has the same meaning as in Section 422.4.*

(b) *A court may issue an ex parte gun violence restraining order if the petition, supported by an affidavit, affidavit made in writing and signed by the petitioner under oath, or an oral statement taken pursuant to paragraph (2) of subdivision (a) of Section 18103, 18155, and any additional information provided to the court on a showing of show good cause to believe that the subject of the petition poses a significant risk of personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined by balancing the factors identified in subdivision (b) of Section 1803 and, if the court elects to consider them, the factors identified in subdivision (c) of Section 18103. both of the following are true:*

(1) *There is a substantial likelihood that the subject of the petition will, in the near future, cause personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined by balancing evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and considering any other relevant evidence, including, but not limited to, evidence of the facts identified in paragraph (2) of subdivision (b) of Section 18155.*

(2) *An ex parte gun violence restraining order is necessary to prevent personal injury to himself, herself, or another person because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances of the subject of the petition.*

~~(b)~~



1 (c) An affidavit supporting a petition for the issuance of an ex  
2 parte gun violence restraining order shall set forth the facts tending  
3 to establish the grounds of the petition, or the reason for believing  
4 that they exist.

5 (e)

6 (d) An ex parte order under this chapter shall be issued or denied  
7 on the same day that the petition is submitted to the court, unless  
8 the petition is filed too late in the day to permit effective review,  
9 in which case the order shall be issued or denied on the next day  
10 of judicial business in sufficient time for the order to be filed that  
11 day with the clerk of the court.

12 ~~18103.~~

13 ~~18155.~~ (a) (1) The ~~magistrate, court,~~ before issuing an ex  
14 parte gun violence restraining order, may examine on oath, the  
15 petitioner and any witness the petitioner may produce and shall  
16 take his or her affidavit in writing, and cause the affidavit to be  
17 signed by the parties making them.

18 (2) In lieu of a written affidavit required by paragraph (1), the  
19 ~~magistrate court~~ may take an oral statement under oath using the  
20 procedures prescribed in Section 1526.

21 (b) (1) In determining whether grounds for a gun violence  
22 restraining order exist, the ~~magistrate court~~ shall consider all  
23 evidence of the following:

24 ~~(1)~~

25 (A) A *recent* threat of violence or act of violence by the subject  
26 of the petition directed toward another.

27 ~~(2)~~

28 (B) A *recent* threat of violence or act of violence by the subject  
29 of the petition directed toward himself or herself.

30 ~~(3)~~

31 (C) A violation of an ~~unexpired~~ emergency protective order  
32 issued pursuant to Section 646.91 or Part 3 (commencing with  
33 Section 6240) of Division 10 of the Family ~~Code. Code that is in~~  
34 *effect at the time the court is considering the petition.*

35 ~~(4)~~

36 (D) A *recent* violation of an unexpired protective order issued  
37 pursuant to Part 4 (commencing with Section 6300) of Division  
38 10 of the Family Code, Section 136.2, Section 527.6 of the Code  
39 of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare  
40 and Institutions Code.

1     ~~(5)~~

2     (E) A conviction for any offense listed in Section 29805.

3     (F) *A pattern of violent acts or violent threats within the past*  
4 *12 months, including, but not limited to, threats of violence or acts*  
5 *of violence by the subject of the petition directed toward himself,*  
6 *herself, or another.*

7     ~~(e)~~

8     (2) In determining whether grounds for a gun violence  
9 restraining order exist, the ~~magistrate court~~ may consider any  
10 ~~evidence of the following:~~ *other relevant evidence, including, but*  
11 *not limited to, evidence of any of the following:*

12     ~~(1)~~

13     (A) The reckless use, display, or brandishing of a firearm by the  
14 subject of the petition.

15     ~~(2)~~

16     (B) The history of use, attempted use, or threatened use of  
17 physical force by the subject of the petition against another person.

18     ~~(3)~~

19     (C) Any prior arrest of the subject of the petition for a felony  
20 offense.

21     ~~(4)~~

22     (D) Any history of a violation by the subject of the petition of  
23 an emergency protective order issued pursuant to Section 646.91  
24 or Part 3 (commencing with Section 6240) of Division 10 of the  
25 Family Code.

26     ~~(5)~~

27     (E) Any history of a violation by the subject of the petition of  
28 a protective order issued pursuant to Part 4 (commencing with  
29 Section 6300) of Division 10 of the Family Code, Section 136.2,  
30 Section 527.6 of the Code of Civil Procedure, or Section 213.5 or  
31 15657.03 of the Welfare and Institutions Code.

32     ~~(6)~~

33     (F) Evidence of recent or ongoing abuse of controlled substances  
34 or alcohol by the subject of the petition.

35     ~~(7)~~

36     (G) Evidence of recent acquisition of firearms or other deadly  
37 weapons.

38     ~~(8) The recency of any of the acts identified in subdivision (b)~~  
39 ~~and this subdivision.~~

1 (3) *For the purposes of this subdivision, “recent” means within*  
2 *the six months prior to the date the petition was filed.*

3 ~~(d)~~

4 (c) If the ~~magistrate~~ court determines that there is good cause  
5 to issue an ex parte gun violence restraining order, ~~he or she~~ *it*  
6 shall issue an ex parte gun violence restraining order that prohibits  
7 the subject of the petition from having under his or her custody  
8 and control, owning, purchasing, possessing, or receiving, or  
9 attempting to purchase or receive, a firearm or ammunition, and  
10 expires no later than 14 days from the date of the order.

11 ~~(e) (1) (A) The court shall notify the Department of Justice of~~  
12 ~~the ex parte gun violence restraining order no later than 24 hours~~  
13 ~~after issuing the order.~~

14 ~~(B) The notice required to be submitted to the Department of~~  
15 ~~Justice pursuant to this subdivision shall be submitted in an~~  
16 ~~electronic format, in a manner prescribed by the department.~~

17 ~~(2) The court shall notify the district attorney in the jurisdiction~~  
18 ~~in which the ex parte gun violence restraining order was issued of~~  
19 ~~the ex parte gun violence restraining order no later than 24 hours~~  
20 ~~after issuing the order.~~

21 ~~18104.~~

22 *18160.* (a) An ex parte gun violence restraining order issued  
23 under this chapter shall include all of the following:

24 (1) A statement of the grounds supporting the issuance of the  
25 order.

26 (2) The date and time the order expires.

27 (3) The address of the superior court for the district or county  
28 in which the restrained party resides.

29 (4) *The date and time of the scheduled hearing.*

30 ~~(4)~~

31 (5) The following statement:

32  
33 “To the restrained person: This order ~~will last~~ *is valid* until the  
34 *expiration* date and time noted above. You *are required to*  
35 *surrender all firearms and ammunition that you own to a local*  
36 *law enforcement agency in accordance with Section 18120 of the*  
37 *Penal Code and you* may not have under your custody and control,  
38 own, purchase, possess, or receive, or attempt to purchase or  
39 receive a firearm or ammunition, while this order is in effect. ~~You~~  
40 ~~have the right to a hearing, scheduled by the court, within 14 days~~

1 following the issuance of this order to determine if you may have  
2 under your custody and control, own, possess, purchase, or receive  
3 a firearm or ammunition. *A hearing will be held on the date and*  
4 *at the time noted above to determine if a more permanent gun*  
5 *violence restraining order should be issued. Failure to appear at*  
6 *that hearing may result in a court making an order against you*  
7 *that is valid for a year.* You may seek the advice of an attorney as  
8 to any matter connected with the order. The attorney should be  
9 consulted promptly so that the attorney may assist you in any  
10 matter connected with the order.”

11  
12 (b) (1) An ex parte gun violence restraining order shall be  
13 served on the restrained person by a law enforcement officer, if  
14 the restrained person can reasonably be located.

15 (2) When serving a gun violence restraining order, the law  
16 enforcement officer shall inform the restrained person ~~that he or~~  
17 ~~she is entitled to a hearing, pursuant to Section 18105, and provide~~  
18 ~~the restrained person with a form to request a hearing.~~ *of the*  
19 *hearing scheduled pursuant to Section 18165.*

20 (c) (1) ~~Upon being served with an ex parte gun violence~~  
21 ~~restraining order, the restrained person shall surrender to the local~~  
22 ~~law enforcement agency any firearm or ammunition in the~~  
23 ~~restrained person's custody and control, or which the restrained~~  
24 ~~person possesses or owns. When taking custody of a firearm or~~  
25 ~~ammunition pursuant to this subdivision, the local law enforcement~~  
26 ~~agency shall comply with the requirements of Section 33800.~~

27 (2) (A) ~~The firearm or firearms or ammunition surrendered~~  
28 ~~pursuant to this subdivision shall be retained by the law~~  
29 ~~enforcement agency until the expiration of the ex parte gun~~  
30 ~~violence restraining order. Upon expiration of the order, the firearm~~  
31 ~~or firearms or ammunition shall be returned to the restrained person~~  
32 ~~in accordance with the provisions of Chapter 2 (commencing with~~  
33 ~~Section 33850) of Division 11 of Title 4. A firearm or ammunition~~  
34 ~~that is not claimed shall be subject to the provisions of Section~~  
35 ~~34000.~~

36 (B) ~~A restrained person who owns a firearm or ammunition that~~  
37 ~~is in the custody of a law enforcement agency pursuant to this~~  
38 ~~subdivision, if the firearm is an otherwise legal firearm, and the~~  
39 ~~restrained person otherwise has right to title of the firearm, shall~~  
40 ~~be entitled to sell or transfer title of the firearm to a licensed dealer.~~

1     ~~(3) If a person other than the restrained person claims title to~~  
2     ~~any firearms or ammunition surrendered pursuant to this~~  
3     ~~subdivision, the firearm or firearms or ammunition shall be returned~~  
4     ~~to the lawful owner pursuant to Chapter 2 (commencing with~~  
5     ~~Section 33850) of Division 11 of Title 4.~~

6     ~~18105. (a) (1) A restrained person is entitled, upon his or her~~  
7     ~~request, to a hearing to determine the validity of the order within~~  
8     ~~14 days after the date on the order before the court that issued the~~  
9     ~~order or another court in that same jurisdiction.~~

10    ~~(2) If a restrained person does not request a hearing, the order~~  
11    ~~shall expire on the date and time listed on the order.~~

12    ~~(b) At the hearing, the petitioner shall have the burden of proving~~  
13    ~~that there is good cause to believe that the restrained person poses~~  
14    ~~a significant risk of personal injury to himself, herself, or another~~  
15    ~~by having under his or her custody and control, owning,~~  
16    ~~purchasing, possessing, or receiving a firearm.~~

17    ~~(c) If it is found at the hearing that there is good cause to believe~~  
18    ~~that the restrained person poses a significant risk of personal injury~~  
19    ~~to himself, herself, or another by having under his or her custody~~  
20    ~~and control, owning, purchasing, possessing, or receiving a firearm,~~  
21    ~~the ex parte gun violence order shall stand.~~

22    ~~(d) If the court finds that the petitioner has not proven that there~~  
23    ~~is good cause supporting the order, the court shall dissolve the~~  
24    ~~order.~~

25    ~~(e) (1) (A) If the order has been dissolved pursuant to~~  
26    ~~subdivision (d), the court shall submit a notice of that fact to the~~  
27    ~~Department of Justice. Upon receipt of the notice, the Department~~  
28    ~~of Justice shall, within 15 days, delete any reference to the ex parte~~  
29    ~~gun violence restraining order from its records.~~

30    ~~(B) The notice required to be submitted to the Department of~~  
31    ~~Justice pursuant to this subdivision shall be submitted in an~~  
32    ~~electronic format, in a manner prescribed by the department.~~

33    ~~(2) If the order has been dissolved pursuant to subdivision (d),~~  
34    ~~the court shall notify the district attorney in the jurisdiction in~~  
35    ~~which the ex parte gun violence restraining order of that fact.~~

36    ~~18165. Within 21 days after the date on the order, before the~~  
37    ~~court that issued the order or another court in the same~~  
38    ~~jurisdiction, the court shall hold a hearing pursuant to Section~~  
39    ~~18175 to determine if a gun violence restraining order should be~~  
40    ~~issued under Chapter 4 (commencing with Section 18170).~~

1 CHAPTER 3.4. GUN VIOLENCE RESTRAINING ORDER ISSUED  
2 AFTER NOTICE AND HEARING  
3

4 ~~18106. The court may issue a gun violence restraining order~~  
5 ~~after notice and a hearing when there is clear and convincing~~  
6 ~~evidence that the subject of the petition poses a significant risk of~~  
7 ~~personal injury to himself, herself, or another by having under his~~  
8 ~~or her custody and control, owning, purchasing, possessing, or~~  
9 ~~receiving a firearm as determined by balancing evidence of the~~  
10 ~~facts identified in subdivision (b) of Section 18103 and, if the court~~  
11 ~~elects to consider them, evidence of any of the facts identified in~~  
12 ~~subdivision (c) of Section 18103.~~

13 *18170. (a) An immediate family member, licensed therapist,*  
14 *or licensed health care provider of a person may request that a*  
15 *court, after notice and a hearing, issue a gun violence restraining*  
16 *order enjoining the subject of the petition from having under his*  
17 *or her custody and control, owning, purchasing, possessing, or*  
18 *receiving a firearm or ammunition for a period of one year.*

19 *(b) For purposes of this subdivision, “immediate family*  
20 *member” has the same meaning as in Section 422.4.*

21 ~~18107.~~

22 *18175. (a) In determining whether to issue a gun violence*  
23 *restraining order under this chapter, the court shall consider*  
24 *evidence of the facts identified in paragraph (1) of subdivision*  
25 *(b) of Section 18103 18155 and may consider evidence of any of*  
26 *the facts any other relevant evidence, including, but not limited*  
27 *to, evidence of the facts identified in paragraph (2) of subdivision*  
28 *(c) (b) of Section 18103. 18155.*

29 *(b) At the hearing, the petitioner shall have the burden of proving*  
30 *that there is proving, by clear and convincing evidence to believe*  
31 *that the subject of the petition poses a significant risk of personal*  
32 *injury to himself, herself, or another by having under his or her*  
33 *custody and control, owning, purchasing, possessing, or receiving*  
34 *a firearm. evidence, that both of the following are true:*

35 *(1) There is a substantial likelihood that the subject of the*  
36 *petition, or a person subject to an ex parte gun violence restraining*  
37 *order, as applicable, will cause personal injury to himself, herself,*  
38 *or another by having under his or her custody and control, owning,*  
39 *purchasing, possessing, or receiving a firearm as determined by*  
40 *balancing evidence of the facts identified in paragraph (1) of*

1 *subdivision (b) of Section 18155 and considering any other relevant*  
2 *evidence, including, but not limited to, evidence, of the facts*  
3 *identified in paragraph (2) of subdivision (b) of Section 18155.*

4 *(2) A gun violence restraining order is necessary to prevent*  
5 *personal injury to the subject of the petition, or the person subject*  
6 *to an ex parte gun violence restraining order, as applicable, or*  
7 *another person because less restrictive alternatives either have*  
8 *been tried and found to be ineffective, or have been determined to*  
9 *be inadequate or inappropriate for the circumstances of the subject*  
10 *of the petition, or the person subject to an ex parte gun violence*  
11 *restraining order, as applicable.*

12 *(c) (1) If the petition is supported by there is clear and*  
13 *convincing evidence, evidence to issue a gun violence restraining*  
14 *order, the court shall issue a gun violence restraining order that*  
15 *prohibits the subject of the petition from having under his or her*  
16 *custody and control, owning, purchasing, possessing, or receiving,*  
17 *or attempting to purchase or receive, a firearm or ammunition.*

18 *(2) If the court finds that there is not clear and convincing*  
19 *evidence to support the issuance of a gun violence restraining*  
20 *order, the court shall dissolve any emergency or ex parte gun*  
21 *violence restraining order then in effect.*

22 *(d) The gun violence restraining order issued under this chapter*  
23 *shall have a duration of one year, subject to termination by further*  
24 *order of the court at a hearing held pursuant to Section 18107*  
25 *18185 and renewal by further order of the court pursuant to Section*  
26 *18109. 18190.*

27 *(e) (1) (A) The court shall notify the Department of Justice of*  
28 *the gun violence restraining order issued under this chapter no*  
29 *later than 24 hours one court day after issuing the order.*

30 *(B) The notice required to be submitted to the Department of*  
31 *Justice pursuant to this subdivision shall be submitted in an*  
32 *electronic format, in a manner prescribed by the department.*

33 *(2) The court shall notify the district attorney in the jurisdiction*  
34 *in which the gun violence restraining order was issued that a gun*  
35 *violence restraining order issued under this chapter was issued no*  
36 *later than 24 hours one court day after issuing the order.*

37 ~~18108.~~

38 ~~18180.~~ *(a) A gun violence restraining order issued pursuant*  
39 *to this chapter shall include all of the following:*

1 (1) A statement of the grounds supporting the issuance of the  
2 order.

3 (2) The date and time the order expires.

4 (3) The address of the superior court for the district or county  
5 in which the restrained party resides.

6 (4) The following statement:

7  
8 “To the restrained person: This order will last until the date and  
9 time noted above. *If you have not done so already, you must*  
10 *surrender all firearms and ammunition that you own to a local*  
11 *law enforcement agency in accordance with Section 18120 of the*  
12 *Penal Code.* You may not have under your custody and control,  
13 own, purchase, possess, or receive, or attempt to purchase or  
14 receive a firearm or ammunition, while this order is in effect.  
15 Pursuant to Section ~~18109~~, 18185, you have the right to request  
16 one hearing to terminate this order at any time during its effective  
17 period. You may seek the advice of an attorney as to any matter  
18 connected with the order.”

19  
20 (b) When the court issues a gun violence restraining order under  
21 this chapter, the court shall inform the restrained person that he or  
22 she is entitled to one hearing to request a termination of the order,  
23 pursuant to Section ~~18109~~, 18185, and shall provide the restrained  
24 person with a form to request a hearing.

25 ~~(c) (1) Upon issuance of a gun violence restraining order issued~~  
26 ~~under this chapter, the restrained person shall surrender to the local~~  
27 ~~law enforcement agency any firearm or ammunition in the~~  
28 ~~restrained person’s custody and control, or which the restrained~~  
29 ~~person possesses or owns. When taking custody of a firearm or~~  
30 ~~ammunition pursuant to this subdivision, the local law enforcement~~  
31 ~~agency shall comply with the requirements of Section 33800.~~

32 ~~(2) (A) The firearm or firearms or ammunition surrendered~~  
33 ~~pursuant to this subdivision shall be retained by the law~~  
34 ~~enforcement agency until the expiration of the gun violence~~  
35 ~~restraining order. Upon expiration of the order, the firearm or~~  
36 ~~firearms or ammunition shall be returned to the restrained person~~  
37 ~~in accordance with the provisions of Chapter 2 (commencing with~~  
38 ~~Section 33850) of Division 11 of Title 4. A firearm or ammunition~~  
39 ~~that is not claimed shall be subject to the provisions of Section~~  
40 ~~34000.~~



1 ~~(B) A restrained person who owns a firearm or ammunition that~~  
2 ~~is in the custody of a law enforcement agency pursuant to this~~  
3 ~~subdivision, if the firearm is an otherwise legal firearm, and the~~  
4 ~~restrained person otherwise has right to title of the firearm, shall~~  
5 ~~be entitled to sell or transfer title of the firearm to a licensed dealer.~~

6 ~~(3) If a person other than the restrained person claims title to~~  
7 ~~any firearms or ammunition surrendered pursuant to this~~  
8 ~~subdivision, the firearm or firearms or ammunition shall be returned~~  
9 ~~to the lawful owner pursuant to Chapter 2 (commencing with~~  
10 ~~Section 33850) of Division 11 of Title 4.~~

11 ~~18109.~~

12 ~~18185. (a) A person described in subdivision (c) of Section~~  
13 ~~18106, person subject to a gun violence restraining order issued~~  
14 ~~under this chapter may submit one written request at any time~~  
15 ~~during the effective period of the order for a hearing for an order~~  
16 ~~permitting the person to own, possess, purchase, or receive a~~  
17 ~~firearm. to terminate the order.~~

18 ~~(b) If the court finds after the hearing that there is no longer~~  
19 ~~clear and convincing evidence to believe that the restrained person~~  
20 ~~poses a significant risk of personal injury to himself, herself, or~~  
21 ~~another by having under his or her custody and control, owning,~~  
22 ~~purchasing, possessing, or receiving a firearm, paragraphs (1) and~~  
23 ~~(2) of subdivision (b) of Section 18175 are true, the court shall~~  
24 ~~terminate the order.~~

25 ~~(c) (1) (A) If the order has been terminated pursuant to~~  
26 ~~subdivision (b), the court shall submit a notice of that fact to the~~  
27 ~~Department of Justice. Upon receipt of the notice, the Department~~  
28 ~~of Justice shall, within 15 days, delete any reference to the gun~~  
29 ~~violence restraining order from its records.~~

30 ~~(B) The notice required to be submitted to the Department of~~  
31 ~~Justice pursuant to this subdivision shall be submitted in an~~  
32 ~~electronic format, in a manner prescribed by the department.~~

33 ~~(2) If the order has been terminated pursuant to subdivision (b),~~  
34 ~~the court shall notify the district attorney in the jurisdiction in~~  
35 ~~which the gun violence restraining order of that fact.~~

36 ~~18110. (a) A~~

37 ~~18190. (a) (1) An immediate family member, licensed~~  
38 ~~therapist, or licensed health care provider may request a renewal~~  
39 ~~of a gun violence restraining order at any time within the three~~  
40 ~~months before the expiration of a gun violence restraining order.~~

1 (2) For purposes of this subdivision, “immediate family  
2 member” has the same meaning as in Section 422.4.

3 (b) A court may, after notice and a hearing, renew a gun violence  
4 restraining order issued under this chapter if ~~there is~~ *the petitioner*  
5 *proves, by clear and convincing evidence that the restrained person*  
6 *continues to pose a significant risk of personal injury to himself,*  
7 *herself, or another by possessing a firearm.* ~~evidence, that~~  
8 *paragraphs (1) and (2) of subdivision (b) of Section 18175 continue*  
9 *to be true.*

10 ~~(b)~~

11 (c) In determining whether to renew a gun violence restraining  
12 order issued under this chapter, the court shall consider evidence  
13 of the facts identified in *paragraph (1) of subdivision (b) of Section*  
14 ~~18103~~ *18155* and ~~may consider~~ *any other relevant evidence,*  
15 *including, but not limited to, evidence of any of the facts identified*  
16 *in paragraph (2) of subdivision (b) of Section 18103.* ~~18155.~~

17 ~~(c)~~

18 (d) At the hearing, the petitioner shall have the burden of ~~proving~~  
19 ~~that there is clear and convincing evidence to believe that the~~  
20 ~~restrained person continues to pose a significant risk of personal~~  
21 ~~injury to himself, herself, or another by having under his or her~~  
22 ~~custody and control, owning, purchasing, possessing, or receiving~~  
23 ~~a firearm.~~ *proving, by clear and convincing evidence, that*  
24 *paragraphs (1) and (2) of subdivision (b) of Section 18175 are*  
25 *true.*

26 ~~(d)~~

27 (e) If the renewal petition is supported by clear and convincing  
28 evidence, the court shall renew the gun violence restraining order  
29 issued under this chapter.

30 ~~(e)~~

31 (f) The renewal of a gun violence restraining order issued  
32 pursuant to this section shall have a duration of one year, subject  
33 to termination by further order of the court at a hearing held  
34 pursuant to ~~Section 18109~~ *18185* and further renewal by further  
35 order of the court pursuant to this section.

36 ~~(f)~~

37 (g) A gun violence restraining order renewed pursuant to this  
38 section shall include the information identified in subdivision (a)  
39 of ~~Section 18108.~~ *18180.*

1     ~~(g) (1) (A) The court shall notify the Department of Justice~~  
2     ~~that a gun violence restraining order issued under this chapter has~~  
3     ~~been renewed no later than 24 hours after renewing the order.~~

4     ~~(B) The notice required to be submitted to the Department of~~  
5     ~~Justice pursuant to this subdivision shall be submitted in an~~  
6     ~~electronic format, in a manner prescribed by the department.~~

7     ~~(2) The court shall notify the district attorney in the jurisdiction~~  
8     ~~in which the gun violence restraining order was renewed that a~~  
9     ~~gun violence restraining order issued under this chapter was~~  
10    ~~renewed no later than 24 hours after issuing the order.~~

11    ~~18111.~~

12    18195. Any hearing held pursuant to this chapter may be  
13    continued upon a showing of good cause. *Any existing order issued*  
14    *pursuant to this division shall remain in full force and effect during*  
15    *the period of continuance.*

16  
17                   CHAPTER 4.5. OFFENSES  
18

19    ~~18112.~~

20    18200. Every person who files a petition for an ex parte gun  
21    violence restraining order pursuant to Chapter-2 3 (commencing  
22    with Section-18102) 18150) or a gun violence restraining order  
23    issued after notice and a hearing pursuant to Chapter-3 4  
24    (commencing with Section-18106), 18170), knowing the  
25    information in the petition to be false or with the intent to harass,  
26    is guilty of a misdemeanor.

27    ~~18113.~~

28    18205. Every person who violates an ex parte gun violence  
29    restraining order issued pursuant to Chapter-2 3 (commencing with  
30    Section-18102) 18150) or a gun violence restraining order issued  
31    after notice and a hearing issued pursuant to Chapter-3 4  
32    (commencing with Section-18106), 18170), is guilty of a  
33    misdemeanor and shall be prohibited from having under his or her  
34    custody and control, owning, purchasing, possessing, or receiving,  
35    or attempting to purchase or receive, a firearm or ammunition for  
36    a five-year period, to commence upon the expiration of the existing  
37    gun violence restraining order.

38    SEC. 4. Section 18250 of the Penal Code is amended to read:

39    18250. If any of the following persons is at the scene of a  
40    domestic violence incident involving a threat to human life or a

1 physical assault, is serving a protective order as defined in Section  
2 6218 of the Family Code, is serving a gun violence restraining  
3 order issued pursuant to Division 3.2 (commencing with Section  
4 18100), that person shall take temporary custody of any firearm  
5 or other deadly weapon in plain sight or discovered pursuant to a  
6 consensual or other lawful search as necessary for the protection  
7 of the peace officer or other persons present:

8 (a) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
9 marshal, or police officer of a city, as defined in subdivision (a)  
10 of Section 830.1.

11 (b) A peace officer of the Department of the California Highway  
12 Patrol, as defined in subdivision (a) of Section 830.2.

13 (c) A member of the University of California Police Department,  
14 as defined in subdivision (b) of Section 830.2.

15 (d) An officer listed in Section 830.6, while acting in the course  
16 and scope of the officer's employment as a peace officer.

17 (e) A member of a California State University Police  
18 Department, as defined in subdivision (c) of Section 830.2.

19 (f) A peace officer of the Department of Parks and Recreation,  
20 as defined in subdivision (f) of Section 830.2.

21 (g) A peace officer, as defined in subdivision (d) of Section  
22 830.31.

23 (h) A peace officer, as defined in subdivisions (a) and (b) of  
24 Section 830.32.

25 (i) A peace officer, as defined in Section 830.5.

26 (j) A sworn member of the Department of Justice who is a peace  
27 officer, as defined in Section 830.1.

28 SEC. 5. Section 8105 of the Welfare and Institutions Code is  
29 amended to read:

30 8105. (a) The Department of Justice shall request each public  
31 and private mental hospital, sanitarium, and institution to submit  
32 to the department information the department deems necessary to  
33 identify those persons who are subject to the prohibition specified  
34 by subdivision (a) of Section 8100, in order to carry out its duties  
35 in relation to firearms, destructive devices, and explosives.

36 (b) Upon request of the Department of Justice pursuant to  
37 subdivision (a), each public and private mental hospital, sanitarium,  
38 and institution shall submit to the department information the  
39 department deems necessary to identify those persons who are  
40 subject to the prohibition specified by subdivision (a) of Section

1 8100, in order to carry out its duties in relation to firearms,  
2 destructive devices, and explosives.

3 (c) A licensed psychotherapist shall report to a local law  
4 enforcement agency, within 24 hours, in a manner prescribed by  
5 the Department of Justice, the identity of a person subject to the  
6 prohibition specified by subdivision (b) of Section 8100. Upon  
7 receipt of the report, the local law enforcement agency, on a form  
8 prescribed by the Department of Justice, shall notify the department  
9 electronically, within 24 hours, in a manner prescribed by the  
10 department, of the person who is subject to the prohibition specified  
11 by subdivision (b) of Section 8100.

12 (d) All information provided to the Department of Justice  
13 pursuant to this section shall be kept confidential, separate, and  
14 apart from all other records maintained by the department. The  
15 information provided to the Department of Justice pursuant to this  
16 section shall be used only for any of the following purposes:

17 (1) By the department to determine eligibility of a person to  
18 acquire, carry, or possess firearms, destructive devices, or  
19 explosives.

20 (2) For the purposes of the court proceedings described in  
21 subdivision (b) of Section 8100, to determine the eligibility of the  
22 person who is bringing the petition pursuant to paragraph (3) of  
23 subdivision (b) of Section 8100.

24 (3) To determine the eligibility of a person to acquire, carry, or  
25 possess firearms, destructive devices, or explosives who is the  
26 subject of a criminal investigation, or who is the subject of a  
27 petition for the issuance of a gun violence restraining order issued  
28 pursuant to Division 3.2 (commencing with Section 18100) of  
29 Title 2 of Part 6 of the Penal Code, if a part of the investigation  
30 involves the acquisition, carrying, or possession of firearms,  
31 explosives, or destructive devices by that person.

32 (e) Reports shall not be required or requested under this section  
33 if the same person has been previously reported pursuant to Section  
34 8103 or 8104.

35 *SEC. 6. The Legislature finds and declares that Section 3 of*  
36 *this act, which adds Section 18110 of the Penal Code, imposes a*  
37 *limitation on the public's right of access to the meetings of public*  
38 *bodies or the writings of public officials and agencies within the*  
39 *meaning of Section 3 of Article I of the California Constitution.*  
40 *Pursuant to that constitutional provision, the Legislature makes*

1 *the following findings to demonstrate the interest protected by this*  
2 *limitation and the need for protecting that interest:*

3 *In order to protect the privacy rights of a person subject to a*  
4 *search pursuant to Section 18110 of the Penal Code.*

5 ~~SEC. 6.~~

6 SEC. 7. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution for certain  
8 costs that may be incurred by a local agency or school district  
9 because, in that regard, this act creates a new crime or infraction,  
10 eliminates a crime or infraction, or changes the penalty for a crime  
11 or infraction, within the meaning of Section 17556 of the  
12 Government Code, or changes the definition of a crime within the  
13 meaning of Section 6 of Article XIII B of the California  
14 Constitution.

15 However, if the Commission on State Mandates determines that  
16 this act contains other costs mandated by the state, reimbursement  
17 to local agencies and school districts for those costs shall be made  
18 pursuant to Part 7 (commencing with Section 17500) of Division  
19 4 of Title 2 of the Government Code.